

EXHIBIT A

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

ACLR, LLC, )  
                  )  
Plaintiff,     )  
                  )  
v.               )     Nos. 15-767 & 16-309C  
                  )     (Judge Campbell-Smith)  
THE UNITED STATES, )  
                  )  
Defendant.      )

**DECLARATION OF CONTRACTING OFFICER IN SUPPORT OF DEFENDANT'S  
RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY  
JUDGMENT**

1. I am Debra Stidham, a Contracting Officer in the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS)' Office of Acquisition and Grants Management. I originally awarded task order no. HHSM-500-2011-00006G to ACLR, LLC. Nicole Hoey, the Contracting Officer who issued the final decision on the termination for convenience claim at issue here, is presently unavailable to sign this declaration.
2. The below description of ACLR's activities under the task order reflects information provided by CMS' Center for Program Integrity, which oversaw the technical aspects of the task order, as well as information provided by my office.
3. ACLR prepared and submitted New Audit Issue Review Packages and/or draft processes relating to 20 audit issues, between approximately August 2011 and October 2015. Only eight audit issues were approved. Of the eight approved audits, one was terminated prior to completion. Please see Appendix A, attached, for a summary of these audit issues and their disposition.
4. For the seven completed audits, the following chart shows the overpayments identified by ACLR, overpayments actually recovered by CMS, and contingency fees paid to ACLR.

Audit Issue	Overpayments Identified by ACLR*	Overpayments Recovered by CMS	Contingency Fee Paid to ACLR
2007 Excluded Providers	\$8,500,760.21	\$1,865,110.50	\$223,813.26
2008-2011 Excluded Providers	\$3,400,190.89	\$2,675,516.61	\$749,144.65
2009-2011 Unauthorized Prescribers	\$5,274,689.14	\$5,161,919.28	\$619,430.32
2010-2011 DEA Schedule Refill Errors	\$2,759,332.65	\$2,510,860.89	\$502,172.18
2012-2013 Excluded Providers	\$442,159.71	\$291,005.30	\$81,481.48
2013 Unauthorized Prescribers	\$914,562.79	\$561,548.34	\$67,385.80
2012-2013 DEA Schedule Refill Errors	\$6,598,149.83	\$5,731,421.44	\$1,146,284.29
<b>TOTAL</b>	<b>\$27,889,845.22</b>	<b>\$18,797,382.40</b>	<b>\$3,389,711.98</b>

\* These overpayments were identified in the Notification of Improper Payment letters originally sent to plan sponsors.

5. The largest contingency fee ACLR ever received for a completed audit was \$1,146,284.29.

6. Based on the overpayments actually recovered, CMS has fully paid ACLR all contingency fees to which it was entitled under the seven completed audits.

7. The labor rates on a contractor's General Services Administration (GSA) Federal Supply Schedule price list reflect the "price" to be charged, not the contractor's "cost", for providing the labor. *See FAR 8.404(d)* ("Services offered on the schedule are *priced* either at hourly rates, or at a fixed price for performance of a specific task (*e.g.*, installation, maintenance, and repair). GSA has already determined the *prices* of supplies and fixed-price services, and rates for services offered at hourly rates, under schedule contracts to be fair and reasonable.") (emphasis added).

As such, the rates include wages, benefits, overhead, and profit. *See* Solicitation No.

47QSMD20R0001 at 10 (current Federal Supply Schedule solicitation) (“Proposed prices must represent fully-burdened rates inclusive of all cost factors (e.g., direct labor, indirect labor, G&A, profit, and IFF).”), available from <https://beta.sam.gov>. ACLR acknowledged in its price list that its labor rates included a 0.74% IFF, which is an Industrial Funding Fee remitted by a contractor to GSA. Pl. Ex. C-1 at A0589; *see also* Solicitation No. 47QSMD20R0001 at 115-116, 118.

I affirm that the foregoing is true to the best of my knowledge and belief.

Debra J. Stidham -S  
Digitally signed  
by Debra Stidham  
Date: 2021.04.09  
06:54:10 -04'00'

---

Contracting Officer  
April 9, 2021

## Appendix A

<b>Part D RAC Audit Issues</b>				
<b>Audit Issue</b>	<b>Date New Audit Issue Review Package Submitted</b>	<b>Determination</b>	<b>Date of Determination</b>	<b>Amount Recovered</b>
Duplicate Payment 2007	N/A	Not Approved; Terminated	11/30/2011 (termination date)	N/A
Excluded Providers and Pharmacies 2007	6/1/2012	Approved		\$1,865,110.50
Excluded Providers 2008-2011	2008-2009: 08/06/2013 2010-2011: 08/29/2013	Approved		\$2,675,516.61
Unauthorized Prescribers 2009-2012	10/31/2013	Approved		\$5,161,919.28
DEA Schedule Drugs 2010-2011	10/31/2013	Approved		\$2,510,860.89
Excluded Pharmacist	1/2/2014	Denied	2/19/2014	N/A
Duplicate Payments 2010	1/2/2014	Approved; Terminated	4/24/2015 (termination date)	N/A
DEA Schedule Refill Errors (LTC)	2/4/2014	Denied	4/21/2014	N/A
Deactivated Prescribers	2/4/2014	Denied	5/19/2014	N/A
Incarcerated Beneficiaries	3/7/2014	Denied	5/21/2014	N/A
Part D Hospice Care Payments	3/17/2014	Denied	4/18/2014	N/A
Part D Direct and Indirect Remuneration (DIR)	4/10/2014	RAC Withdrew	7/14/2014	N/A
Expired Prescription	8/25/2014	Denied	2/10/2015	N/A
CSA Schedule Refills 2012-2013	6/26/2015	Denied	10/8/2015	N/A
Duplicate Payments 2012-2013	7/16/2015	Denied	10/15/2015	N/A
Unsanctioned Prescribers	8/13/2015	Denied	N/A	N/A
Sales Tax Errors 2012-2013	8/21/2015	Denied	9/3/2015	N/A
Excluded Providers 2012-2013	10/22/2015	Approved	11/9/2015	\$291,005.30

Unauthorized Prescribers 2013	10/22/2015	Approved	11/9/2015	\$561,548.34
DEA Schedule Drugs 2012-2013	10/22/2015	Approved	11/9/2015	\$5,731,421.44